IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 22024 of 2004

Between:

U.Vedamurthy S/o.Naga Raju
R/o.Prasannayapalle, Repathadu Mandal Anantapur District.

..... PETITIONER

AND

1 The Collector and District Magistrate Anantapur.
2 The Government of Andhra Pradesh rep. by its Chief Secretary,

Hyderabad.
3 The Superintendent of Central Prison Cherlapalli.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Habeas Corpus under Art 226 of the Constitution of India directing the Respondents to produce the detenu Sri Viguduru Venkata Ramudu, S/o.Venkatesulu, now detained in Central Prison, Cherlapalli, before this Hon'ble Court and he may be ordered to be released forth with after declaring his detention as illegal and void.

Counsel for the Petitioner: MR.C.PRAVEEN KUMAR

Counsel for the Respondent Nos 1 to 3: THE ADVOCATE GENERAL

The Court made the following :

ORDER: (per Sri BN.J)

This is a Habeas Corpus petition filed by the nephew of the detenue V.Venkata Ramudu (hereinafter referred to as 'the detenu') challenging the order of Collector and District Magistrate, Ananthapur dated 17.9.2004 by which the detenu has been placed under detention in terms of the provisions of the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act 1 of 1986 (for short 'the Act').

The grounds of detention have been served on the detenu. Counter has been filed. The learned senior counsel appearing for the petitioner submits that the ground Nos.2 and 5 are irrelevant and hence the detention is bad.

Ground No.2 pertains to a case registered against the detenu in Crime No.90 of 2003 registered under Section 107 Cr.P.C and ground No.5 pertains to the case registered against the detenu in Crime No.72 of 2004 registered under Section 25(1B)(b) of the Arms Act. This Court has consistently held that unless a person is a 'goonda' within the meaning of Section 2(g) of the Act, he cannot be detained in terms of the Act. 'Goonda' is defined to be one who either by himself or as a member of or a leader of a gang habitually commits or attempts to commit or abets the commission of offences punishable under Chapter XVI or chapter XVII or Chapter XXII of the Indian Penal Code. Since the grounds disclose that the detenu was accused of having committed an offence under the Arms Act and that there had been a case registered under Section 107 Cr.P.C, these grounds were irrelevant as they

do not fall within the offences mentioned in Section 2(g) of the Act. Therefore, we have no doubt that ground Nos.2 and 5 were irrelevant. Since under the Act, grounds are not separable and therefore the whole detention vitiates.

The order of detention is accordingly quashed. The writ petition is allowed. Respondents are directed to release the detenu forthwith, if not required in any other case.

(BILAL NAZKI,J)

dated 15..12..2004

(DR.G.YETHIRAJULU,J)

msv.

To

1 The Collector and District Magistrate Anantapur.
2 The Chief Secretary, Government of Andhra Pradesh

Hyderabad.
3 The Superintendent of Central Prison Cherlapalli.

4 2 CCs to the Advocate General, High Court of A.P. Hyd (OUT)

5 2 CD copies.